Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No, 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), pursuant to the Public Notice released on April 24, 2017, (DA 17-388), hereby respectfully submits its reply to comments/oppositions to the "Petition for Limited Stay of Transformation Order Years 6 and 7 ICC Transition – As It Impacts a Subset of Tandem Switching and Transport Charges" ("Petition"), filed on April 11, 2017, by CenturyLink in the above-captioned proceedings. Commenters opposing the Petition have demonstrated that the requested stay is both procedurally defective and contrary to the public interest, and should accordingly be denied. To the extent that there is any confusion regarding application of Sections 51.907(g) and (h) of

the Rules, the Commission should expeditiously issue guidance that that "affiliate" as used in these rules should be interpreted consistent with the definition of affiliate codified in Section 3 of the Telecommunications Act (47 U.S.C. §153(1)).

There can be no dispute that CenturyLink's petition for stay is procedurally defective – it is no more than an untimely petition for reconsideration of rules adopted in and known to the industry since 2011, and CenturyLink has failed to make the requisite showing that a stay -- in particular, an open-ended stay -- is warranted.[1] Of even greater significance is the negative impact such a stay would have, thwarting the already drawn out transition to a system of bill-and-keep which the Commission has unambiguously concluded "will eliminate competitive distortions between wireline and wireless services; and best promotes our overall goals of modernizing our rules and facilitating the transition to IP."[2] Commenting parties clearly explained why grant of CenturyLink's request for stay would only "prolong the 'geographic and per-minute charges and implicit subsidies [that are] fundamentally in tension with and a deterrent to deployment of all IP networks.'"[3]

A few CLECs supported CenturyLink's request for stay on the grounds that billing disputes will arise due to confusion over whether the transitional tandem switching and transport charges apply where an end office is owned by "an affiliate" of a price cap carrier that owns the access tandem.[4] However, there are numerous instances in

[1] *See, e.g.*, Sprint, p. 2; NCTA, p. 2; AT&T, p. 4.
[2] Sprint, pp. 2-3, quoting the *ICC Transformation Order (Connect America Fund, et al.*, 26 FCC Rcd 17663 (2011), para. 33).
[3] NCTA, p. 4, quoting *ICC Transformation Order*, para. 820; *see also*, AT&T, p. 8 (the "best way" to reform the inefficient legacy intercarrier compensation system "is for the Commission to continue to implement its initial transition rules…").
[4] *See, e.g.*, West Telecom Services and Peerless Network, Inc., p. 6; Inteliquent Inc., p. 4; Peninsula Fiber Network, p. 2; HAMR Communications, p. 1.

which different service providers charge different rates for the same services – for example, wireless carriers cannot assess access charges at all, and rate of return LECs charge different rates than do price cap LECs – and billing disputes in the telecommunications industry are hardly uncommon. Rather than delay the benefits of proceeding with the ICC transition, the Commission can clear up any confusion that CenturyLink or any other party may be experiencing about the application of the Year 6/7 tandem switching and transport charges by referencing the definition of affiliate contained in Section 3 of the Communications Act (47 U.S.C. §153(1)). For purposes of the Act, an affiliate is:

> a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent.

This "10% rule" can and should be used for purposes of implementing the Year 6/7 tandem switching and transport transition rules, and the Commission should explicitly state that affiliation in this context is determined by corporate ownership and control, and not by the type of service the entity provides.[5] Thus, if the CMRS carrier, CLEC, ILEC, or other entity that owns the end office shares 10% or more corporate parentage with the price cap carrier that owns the tandem, then the entities are affiliates, and the Year 6/7 transitional tandem switching and transport rates apply.

Although AT&T opposes CenturyLink's request for stay, it asserts that the tandem switching and transport transition rules apply only when the end office is owned by an ILEC affiliate of the price cap carrier that owns the access tandem. It states that a

[5] As West Telecom Services and Peerless Network, Inc. noted (p. 3), interpreting the term "affiliates" in Section 51.907 to include only price cap ILECs that are subsidiaries of the same holding company would be inconsistent with the Act's definition of affiliate.

price cap carrier "must phase out its tandem charges when it is 'the terminating carrier' and, as such owns both the end office and tandem switches," but not where the terminating carrier is "a carrier *other* than the Price Cap Carrier (such as a CLEC or a CMRS carrier)…."[6] This interpretation would undermine the FCC's goal in establishing a bill-and-keep regime and should be rejected.

AT&T's restrictive definition of an affiliate is inconsistent with the current industry structure[7] and the goals of the FCC. Because AT&T's wireless service revenues account for a huge percentage of its corporate revenues, and its wireless subscribers exceed, by an order of magnitude, its wireline customers,[8] its proposed definition would allow AT&T to effectively impose asymmetric rates on the rest of the industry, the very tactic the FCC was attempting to eliminate by adopting a bill-and-keep regime. Applying the Act's existing definition of an affiliate is a more sensible approach that would be faithful to the overarching goals of the Commission's *ICC Transformation Order* -- promoting competition and encouraging the transition to IP.

[6] AT&T, pp. 13-14, internal citation omitted, emphasis in original.
[7] AT&T Services, Inc. filed its comments in this proceeding "on behalf of its affiliates" (AT&T Comments, p. 1). Sprint presumes that this includes its ILEC, CLEC, wireless and any other related operations.
[8] According to AT&T's 2016 Annual Report (pp. 14, 18), its domestic wireless service and equipment operating revenues (business and consumer) totaled $72.820 billion, compared to $11.389 billion for business fixed strategic services and $16.364 billion for legacy voice and data services. It had 146.832 million wireless customers, compared to 13.986 million in-region network access lines in service (*id.*, p. 10).

Respectfully submitted,

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